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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,978	01/18/2002	Douglas Paul Allard	11533.0024.NPUS00	5146

7590 06/12/2003  
Howrey Simon Arnold & White  
750 Bering Drive  
Houston, TX 77057

EXAMINER

THEISEN, DOUGLAS J

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 06/12/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

ASL

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/053,978	ALLARD, DOUGLAS PAUL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Douglas J. Theisen	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7,8 and 10 is/are rejected.
- 7) ☒ Claim(s) 3,5,6,9 and 11-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the zipper must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 100, 113, and 114 are missing from Figure 2; 100, 102, and 112 are missing from Figure 3; and 100, 102, and 104 are missing from Figure 4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The disclosure is objected to because of the following informalities: On pages 8, 10, 11, and 12 reference number 102 is variously called "first open end or opening," "inlet spout," or "inlet." On pages 8 and 10 reference number 103 is called "second end" or "outlet spout."

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Japan patent no. 2001170648A to Ja et al. Ja describes an apparatus comprising a permeable membrane defining a bag having an opening, an interior space and fine openings in the membrane with chitosan located within the bag. See Figure 1 and the abstract.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1, 2, 4, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent no. 6,334,953 to Singleton in view of U. S. patent no. 5,511,904 to Van Egmond and in view of Vanson.

9. Singleton discloses a storm water drainage filter assembly comprising a permeable membrane defining a bag (filter bag 16), having an opening defining a spout extending outwardly from the bag (collar member 30), having an interior space (internal bag chamber 23), and a plurality of fine openings in the permeable membrane communicating the interior space with the exterior of the membrane (filtering material of Singleton includes silt screen or similar mesh filtering material such as woven or non-woven materials). Singleton also discloses a second opening in the bag comprising an outlet (flaps 24). See Figures 1 and 3; column 3, lines 28 to 65; and column 4, line 57 to column 5, line 13.

10. Singleton does not disclose chitosan located within the bag.

11. Van Egmond discloses a storm water disposal system having porous sacks containing filtration material selected from those generally available to remove a known contaminant. See Figure 1 and column 2, line 54 to column 3, line 31. Vanson discloses storm water treatment with chitosan gel.

12. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide Singleton's assembly with filtration material inside the bag in order to remove as much of the contaminants from the storm water as possible, as suggested by Van Egmond. Suitable filtration material is chitosan gel, as suggested by Vanson.

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13. Therefore, it would have been obvious to combine Van Egmond and Vanson with Singleton to obtain the invention as specified in claims 1, 2, 4, 7, and 8.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Singleton in view of Van Egmond and Vanson as applied to claims 1, 2, 4, 7, and 8 above, and further in view of U. S. patent application publication 2002/0130070 A1 to Roesner.

15. Singleton, Van Egmond, and Vanson do not disclose a zipper traversing one or more outer edges of the bag.

16. Roesner discloses a zipper to close shell opening 32 of outer shell 26 (formed in a bag-type configuration) of filter pad 10. See figure 1; page 3, paragraph 23; and page 4, paragraph 25.

17. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide Singleton's assembly with chitosan gel inside the bag in order to remove as much of the contaminants from the storm water as possible, as suggested by Van Egmond and Vanson, and to provide the bag of Singleton's assembly with a zipper in order to be able to replace the chitosan gel or to remove the collected debris form inside the bag so that the bag can be reused, as suggested by Roesner.

18. Therefore, it would have been obvious to combine Roesner, Van Egmond, and Vanson with Singleton to obtain the invention as specified in claim 10.

***Allowable Subject Matter***

19. Claims 3, 5, 6, 9, 11, 12, 13, 14, 15, 16, 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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20. Claims 18, 19, and 20 are allowed.

***Conclusion***

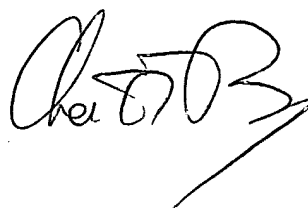
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Theisen whose telephone number is 703-305-6499. The examiner can normally be reached on Monday, Tuesday, and Wednesday 6:30 until 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 703-308-1261. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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June 9, 2003

A handwritten signature in black ink, appearing to read 'Chester T. Barry', with a stylized flourish at the end.

**CHESTER T. BARRY  
PRIMARY EXAMINER**